


THE WHITE HOUSE
WASHINGTON

February 24, 1960

Dear Mr. Director:

The President on February twentieth signed an Executive Order entitled "Safeguarding Classified Information Within Industry," a copy of which is enclosed.

Sincerely,


WILLIAM J. HOPKINS
Executive Clerk

Honorable Allen W. Dulles
Director of Central Intelligence
Washington, D. C.

Enclosure

IMMEDIATE RELEASE

FEBRUARY 20, 1960

James C. Hagerty, Press Secretary to the President

THE WHITE HOUSE

The President today issued an Executive Order authorizing revised industrial security procedures. Certain aspects of the previous program were considered by the United States Supreme Court in the case of *Greene v. McElroy*, decided June 29, 1959.

Today's Order prescribes standards and procedures for granting individual defense workers the privilege of access to classified defense information. The President determined that this Order both protects the nation's security and affords the maximum possible safeguards for the individuals affected by it. Also, the Order expressly provides that decisions under it shall in no sense be a determination as to the loyalty of particular persons.

Detailed departmental regulations will implement the Order. Its general requirements include an opportunity to respond to the detailed statement of the reasons why an access authorization may be refused and an opportunity to appear personally in support of an application for access. The applicant must be allowed to cross-examine persons who have made adverse statements against him on disputed questions of fact. Limited exceptions to this general rule are expressly set forth.

When such exceptions are invoked, a final decision adverse to the applicant can be made only by the head of the department based upon his personal review of the case. Additional safeguards are also prescribed. If, for example, the informant is a confidential intelligence agent, the head of department or investigative agency must so state and also certify that disclosure of his identity would be substantially harmful to the national interest. Other excepted information may be used only after a preliminary determination that the information appears to be reliable and material; a determination that failure to use it would be substantially harmful to the national security; and a determination that the person who made the statement "cannot appear to testify (a) due to death, severe illness, or similar cause, in which case the identity of the person and the information to be considered shall be made available to the applicant, or (b) due to some other cause determined by the head of the department to be good and sufficient." Only if all indispensable determinations set forth in the Order are made, can the information be used; in that event the applicant must be given an appropriate summary of it and the absence of cross-examination must be considered. Similar provisions apply to classified physical evidence or records other than investigative reports as such.

Consistent with the new procedures, the Order provides for cooperation in the production of witnesses so that applicants for access may have the maximum benefit of the cross-examination procedures accorded by this Order.

Special provision is made for the unusual case in which the head of department personally determines that these procedures cannot be used.

A full understanding of these procedures requires a careful reading of the Order's full text which is as follows:

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EXECUTIVE ORDER

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SAFEGUARDING CLASSIFIED INFORMATION
WITHIN INDUSTRY

WHEREAS it is mandatory that the United States protect itself against hostile or destructive activities by preventing unauthorized disclosures of classified information relating to the national defense; and

WHEREAS it is a fundamental principle of our Government to protect the interests of individuals against unreasonable or unwarranted encroachment; and

WHEREAS I find that the provisions and procedures prescribed by this order are necessary to assure the preservation of the integrity of classified defense information and to protect the national interest; and

WHEREAS I find that those provisions and procedures recognize the interests of individuals affected thereby and provide maximum possible safeguards to protect such interests;

NOW, THEREFORE, under and by virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States and as Commander in Chief of the armed forces of the United States, it is hereby ordered as follows:

SECTION 1. (a) The Secretary of State, the Secretary of Defense, the Commissioners of the Atomic Energy Commission, the Administrator of the National Aeronautics and Space Administration, and the Administrator of the Federal Aviation Agency, respectively, shall, by regulation, prescribe such specific requirements, restrictions, and other safeguards as they consider necessary to protect (1) releases of classified information to or within United States industry that relate to bidding on, or the negotiation, award, performance, or termination of, contracts with their respective agencies, and (2) other releases of classified information to or within industry that such agencies have responsibility for safeguarding. So far as possible, regulations prescribed by them under this order shall be uniform and provide for full cooperation among the agencies concerned.

(b) Under agreement between the Department of Defense and any other department or agency of the United States, including, but not limited to, those referred to in subsection (c) of this section, regulations prescribed by the Secretary of Defense under subsection (a) of this section may be extended to apply to protect releases (1) of classified information to or within United States industry that relate to bidding on, or the negotiation, award, performance, or termination of, contracts with such other department or agency, and (2) other releases of classified information to or within industry which such other department or agency has responsibility for safeguarding.

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(c) When used in this order, the term "head of a department" means the Secretary of State, the Secretary of Defense, the Commissioners of the Atomic Energy Commission, the Administrator of the National Aeronautics and Space Administration, the Administrator of the Federal Aviation Agency, and, in sections 4 and 8, includes the Attorney General. The term "department" means the Department of State, the Department of Defense, and the Atomic Energy Commission, the National Aeronautics and Space Administration, the Federal Aviation Agency, and, in sections 4 and 8, includes the Department of Justice.

SECTION 2. An authorization for access to classified information may be granted by the head of a department or his designee, including, but not limited to, those officials named in section 8 of this order, to an individual, hereinafter termed an "applicant", for a specific classification category only upon a finding that it is clearly consistent with the national interest to do so.

SECTION 3. Except as provided in section 9 of this order, an authorization for access to a specific classification category may not be finally denied or revoked by the head of a department or his designee, including, but not limited to, those officials named in section 8 of this order, unless the applicant has been given the following:

(1) A written statement of the reasons why his access authorization may be denied or revoked, which shall be as comprehensive and detailed as the national security permits.

(2) A reasonable opportunity to reply in writing under oath or affirmation to the statement of reasons.

(3) After he has filed under oath or affirmation a written reply to the statement of reasons, the form and sufficiency of which may be prescribed by regulations issued by the head of the department concerned, an opportunity to appear personally before the head of the department concerned or his designee, including, but not limited to, those officials named in section 8 of this order, for the purpose of supporting his eligibility for access authorization and to present evidence on his behalf.

(4) A reasonable time to prepare for that appearance.

(5) An opportunity to be represented by counsel.

(6) An opportunity to cross-examine persons either orally or through written interrogatories in accordance with section 4 on matters not relating to the characterization in the statement of reasons of any organization or individual other than the applicant.

(7) A written notice of the final decision in his case which, if adverse, shall specify whether the head of the department or his designee, including, but not limited to, those officials named in section 8 of this order, found for or against him with respect to each allegation in the statement of reasons.

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SECTION 4. (a) An applicant shall be afforded an opportunity to cross-examine persons who have made oral or written statements adverse to the applicant relating to a controverted issue except that any such statement may be received and considered without affording such opportunity in the circumstances described in either of the following paragraphs:

(1) The head of the department supplying the statement certifies that the person who furnished the information is a confidential informant who has been engaged in obtaining intelligence information for the Government and that disclosure of his identity would be substantially harmful to the national interest.

(2) The head of the department concerned or his special designee for that particular purpose has preliminarily determined, after considering information furnished by the investigative agency involved as to the reliability of the person and the accuracy of the statement concerned, that the statement concerned appears to be reliable and material, and the head of the department or such special designee has determined that failure to receive and consider such statement would, in view of the level of access sought, be substantially harmful to the national security and that the person who furnished the information cannot appear to testify (A) due to death, severe illness, or similar cause, in which case the identity of the person and the information to be considered shall be made available to the applicant, or (B) due to some other cause determined by the head of the department to be good and sufficient.

(b) Whenever procedures under paragraphs (1) or (2) of subsection (a) of this section are used (1) the applicant shall be given a summary of the information which shall be as comprehensive and detailed as the national security permits, (2) appropriate consideration shall be accorded to the fact that the applicant did not have an opportunity to cross-examine such person or persons, and (3) a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

SECTION 5. (a) Records compiled in the regular course of business, or other physical evidence other than investigative reports, may be received and considered subject to rebuttal without authenticating witnesses, provided that such information has been furnished to the department concerned by an investigative agency pursuant to its responsibilities in connection with assisting the head of the department concerned to safeguard classified information within industry pursuant to this order.

(b) Records compiled in the regular course of business, or other physical evidence other than investigative reports, relating to a controverted issue which, because they are classified, may not be inspected by the applicant, may be received and considered provided that: (1) the head of the department concerned or his special designee for that purpose has made a preliminary determination that such physical evidence appears to be material, (2) the head of the department concerned

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or such designee has made a determination that failure to receive and consider such physical evidence would, in view of the level of access sought, be substantially harmful to the national security, and (3) to the extent that the national security permits, a summary or description of such physical evidence is made available to the applicant. In every such case, information as to the authenticity and accuracy of such physical evidence furnished by the investigative agency involved shall be considered. In such instances a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

SECTION 6. Because existing law does not authorize the Department of State, the Department of Defense, or the National Aeronautics and Space Administration to subpoena witnesses, the Secretary of State, the Secretary of Defense, or the Administrator of the National Aeronautics and Space Administration, or his representative, may issue, in appropriate cases, invitations and requests to appear and testify in order that the applicant may have the opportunity to cross-examine as provided by this order. So far as the national security permits, the head of the investigative agency involved shall cooperate with the Secretary or the Administrator, as the case may be, in identifying persons who have made statements adverse to the applicant and in assisting him in making them available for cross-examination. If a person so invited is an officer or employee of the executive branch of the Government or a member of the armed forces of the United States, the head of the department or agency concerned shall cooperate in making that person available for cross-examination.

SECTION 7. Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.

SECTION 8. Except as otherwise specified in the preceding provisions of this order, any authority vested in the head of a department by this order may be delegated to the

(1) Under Secretary of State or a Deputy Under Secretary of State, in the case of authority vested in the Secretary of State;

(2) Deputy Secretary of Defense or an Assistant Secretary of Defense, in the case of authority vested in the Secretary of Defense;

(3) General Manager of the Atomic Energy Commission, in the case of authority vested in the Commissioners of the Atomic Energy Commission;

(4) Deputy Administrator of the National Aeronautics and Space Administration, in the case of authority vested in the Administrator of the National Aeronautics and Space Administration;

(5) Deputy Administrator of the Federal Aviation Agency, in the case of authority vested in the Administrator of the Federal Aviation Agency; or

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(6) Deputy Attorney General or an Assistant Attorney General, in the case of authority vested in the Attorney General.

SECTION 9. Nothing ~~contained in this~~ order shall be deemed to limit or affect the responsibility ~~and powers~~ of the head of a department to deny or revoke access to a ~~specific classification~~ category if the security of the nation so requires. Such authority may not be delegated and may be exercised only when the head of a department determines that the procedures prescribed in sections 3, 4, and 5 cannot be invoked consistently with the national security and such determination shall be conclusive.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
February 20, 1960.

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SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM

Approved For Release 2002/08/01 : CIA-RDP80B01676R000900010061-7

CENTRAL INTELLIGENCE AGENCY
OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	INITIALS	DATE
1	DD/S - 125 East	W	2/26/60
2	General Counsel	JRMS	2/29/60
3	Deputy Director (Support)	JRW	2/29/60
4	EO/DCI	JR	3/1/60
5	E/R - file		
6			

<input type="checkbox"/>	ACTION	<input type="checkbox"/>	DIRECT REPLY	<input type="checkbox"/>	PREPARE REPLY
<input checked="" type="checkbox"/>	APPROVAL	<input type="checkbox"/>	DISPATCH	<input type="checkbox"/>	RECOMMENDATION
<input checked="" type="checkbox"/>	COMMENT	<input checked="" type="checkbox"/>	FILE	<input checked="" type="checkbox"/>	RETURN
<input type="checkbox"/>	CONCURRENCE	<input checked="" type="checkbox"/>	INFORMATION	<input type="checkbox"/>	SIGNATURE

Remarks:

Red:

Is any action required on our part with regard to the attached Executive Order?

No, by phone.

28 Feb

JSE

[Signature]

FOLD HERE TO RETURN TO SENDER

FROM: NAME, ADDRESS AND PHONE NO.	DATE
EO/DCI	25 Feb 60
UNCLASSIFIED	